



**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, October 8, 2024
6:30 PM**

1. CALL TO ORDER, MAYOR EDMUND MALKOON

Mayor Edmund Malkoon called the meeting to order at 6:30 p.m. Also present were Vice Mayor Randy Strauss, Commissioner Richard DeNapoli, Commissioner John A. Graziano, Commissioner Theo Pouloupoulos, Town Manager Linda Connors, Town Attorney Susan Trevarthen, Deputy Town Manager/Public Works Director Ken Rubach, Assistant to the Town Manager Courtney Easley, Development Services Director Jhanelle Campbell, Director of Budget and Finance Lucila Lang, Assistant Finance Director Edner Saint-Jean, Events and Marketing Manager Katie Anderson, and Town Clerk Katrina Adler.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Pauline Brooks McGuinness gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Commissioner DeNapoli requested discussion of materials sent to residents regarding the upcoming ballot question under Commissioner Presentations.

5. PRESENTATIONS

a. Camera Clinic Proclamation

Mayor Malkoon read a Proclamation in honor of the 50th anniversary of the Camera Clinic, which was opened by the Pollack family in 1974. October 8, 2024 was declared Camera Clinic Day in Lauderdale-By-The-Sea.

6. PUBLIC COMMENTS

At this time Mayor Malkoon opened public comment.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Marc Pearson, resident, expressed concern with the property at 1931 Coral Reef Drive. He believed that the Town Commission and the Town's Planning and Zoning Board have been provided with an incorrect interpretation of the situation at that property, and that his appeal regarding the property should be heard by both entities. He also felt the manner in which Town Staff resolved the issue was in violation of existing Ordinances related to variances.

With no other individuals wishing to speak at this time, Mayor Malkoon closed public comment.

7. PUBLIC SAFETY DISCUSSION

None.

8. TOWN MANAGER REPORT

a. Town Manager Report

Town Manager Linda Connors noted that Taste of the Beach has been funded in the fiscal year (FY) 2025 budget due to its success in 2024. Staff recommends reserving Wednesday, March 12, 2025 in El Prado Park from 5 p.m. to 8 p.m. for this event. They anticipate the sale of 500 tickets, which would be a significant increase over the 200 tickets sold the previous year, at a cost of \$35/ticket for early purchase and \$45/ticket at the gate.

Taste of the Beach will include food and drink from local and neighboring food and beverage establishments, as well as live music and a presence from community partners. The Commissioners agreed by consensus to the proposed event.

Town Manager Connors concluded that the FY 2025 calendar is also provided for the Commissioners at tonight's meeting. The calendar has been adjusted to reflect religious holidays as well as Broward County's budget schedule. It includes tentative Strategic Plan Workshop meetings as well as only one Commission meeting per month in August, November, and December 2025.

Mayor Malkoon asked the Commissioners whether or not they would like to continue with the same budget process in 2025 or would prefer to modify that process in the

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

future. A budget meeting is scheduled for April 22, 2025, which is earlier than the Town's regular budget hearing process.

Town Manager Connors clarified that the April 22, 2025 meeting is a public workshop which allows the Commission and the public to provide ideas on what they would like to see in the budget. Another workshop is scheduled for June 24, 2025, at which time Staff would bring those ideas back with tentative cost estimates.

Mayor Malkoon commented that he would prefer the Commission to return to their previous budget process. In that earlier process, Staff worked together to develop a budget and presented it to the Commission at their first budget hearing when the Town's tentative millage rate was introduced. Staff also met individually with each Commissioner. There was no public input on the budget before this first presentation.

After the first meeting, Staff would bring back an amended budget to the Commission, including any budget cuts as well as any changes to the millage rate. The overall previous process was shorter.

Commissioner Poulopoulos observed that he did not oppose holding budget workshops; however, he did not feel the Commission needed a full breakdown and explanation of all components of the budget. He was not certain that the 2024 workshops accomplished all that they were intended to do. He concluded that his preference was for one workshop which would be open to the public.

Commissioner DeNapoli also recommended shortening the budget workshop process to remove repetition.

Commissioner Graziano felt 2024's budget process had been a learning experience, but agreed that the process can be tightened in the future, with only one budget workshop.

Town Manager Connors noted that the Town does not receive its assessed values from Broward County until the beginning of June, which means there would be no figures presented on what the Town can expect. She concluded that if the April 22 meeting is removed, the budget process can start on June 24, 2025, including the Town's assessed value. If another meeting is necessary, it can be scheduled between June 2025 and September 9, 2025.

The Commissioners agreed by consensus to eliminate the April 22, 2025 meeting.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Commissioner Graziano asked when public input would be provided on next year's budget. Town Manager Connors replied that public input would be heard at the June meeting as well as at both September budget hearings. The two September meetings are required.

Town Manager Connors continued that the Town's Veterans Day celebration is scheduled for November 11, 2024 in El Prado Park at 10 a.m. Vice Mayor Strauss is serving as Chair of this event, which will include a keynote speaker. She encouraged all residents who are veterans to fill out registration cards for the event so they may be recognized and honored.

The Founders Day event was rained out and will require rescheduling to either November 2 or November 9, 2024. Town Manager Connors requested direction from the Commission regarding their preference for either date. It was determined by consensus to proceed with the Founders Day event on November 2.

Town Manager Connors reminded all residents to renew their resident parking passes, which can now be done online via the Town's website. Town Staff is available to help any residents who need assistance. She also noted that license plate readers (LPRs) are now used to read registered license plates, which means parking pass stickers are no longer required.

The Town is also registering users of the Community Center. The annual cost for residents is \$25, while non-residents are charged \$50. Over 160 users have registered thus far.

Deputy Town Manager/Public Works Director Ken Rubach provided an update on Hurricane Milton, which is expected to make landfall this week. The Town can expect roughly 1 in. of rain as well as sustained winds between 25 and 35 miles per hour (MPH). These conditions are expected to begin on Wednesday, October 9, 2024 and extend into Thursday. Wind gusts are expected.

Deputy Town Manager/Public Works Director Rubach advised that Public Works Staff follows standard operating procedures for different stages of tropical storm readiness. They are prepared for the expected level of the storm, which has been predicted to strongly affect Florida's West Coast.

Deputy Town Manager/Public Works Director Rubach added that bridges were locked at noon today, although no notice was provided to individual municipalities.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Town Manager Connors advised that the Town will close at noon on Wednesday, October 9, 2024, through Thursday, October 10. Offices will reopen on Friday, October 11. This process follows the example provided by Broward County. Some Public Works Staff will be present on October 9, and some essential personnel will also be available in Town Hall on October 10.

Mayor Malkoon thanked Public Works Staff for their work in advance of the storm, as well as for keeping the Commissioners informed of the storm's progress. He advised that he had declined to declare a state of emergency due to the low anticipated intensity of the storm.

Mayor Malkoon continued that he has also spoken with other local municipalities to determine if there are opportunities to cooperate on storm preparations in the future. More information will be brought before the Commission on this topic at a later date. He has also contacted the Broward League of Cities and similar organizations to ensure that the Town is aware of any additional potential assistance those entities may provide. He will keep the public apprised of any such opportunities.

Commissioner Pouloupoulos asked what measures are in place to communicate with the public in the event that the storm's expected impacts shift closer to the Town. Deputy Town Manager/Public Works Director Rubach replied that a hurricane warning, if necessary, would be sent out via social media blasts, as well as the Town's "Code Red" system, which auto-dials residents. He recommended that residents stay tuned to local channels broadcasting information from the National Weather Service. Town Manager Connors encouraged residents to sign up for Code Red alerts.

Mayor Malkoon noted that some Resolutions on tonight's Agenda were moved under the Consent Agenda Item as well as under New Business. He was advised by the Town Attorney that these changes were permissible; however, going forward, his preference would be to see public comments offered on individual Agenda Items in their previous order.

Town Manager Connors asked if there is Commission consensus to keep Resolutions under the Agenda heading of Resolutions – Public Comments rather than under the Consent Agenda.

Commissioner Graziano stated that he also did not feel items which may require considerable discussion should be placed on the Consent Agenda, but should be

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

presented as Resolutions. Commissioner Pouloupoulos agreed, adding that it can be difficult to see that some of the Resolutions are placed under the Consent Agenda without checking the meeting overview as well as the individual Agenda Items. Vice Chair Strauss and Commissioner DeNapoli also agreed, providing unanimous consensus on this issue.

Town Attorney Susan Trevarthen explained that the meeting procedure Resolution allows the Commission to place Resolutions under the Consent Agenda. The Commission may ask the Town Manager to proceed in this fashion as a custom, or to officially amend the Resolution so it would no longer be possible to include Resolutions on the Consent Agenda. Town Manager Connors acknowledged that this can continue to be done by custom if that is the Commission's preference.

Commissioner Graziano asserted that he would like to see tonight's Consent Agenda Resolutions moved under Resolutions – Public Comments at tonight's meeting. Town Manager Connors noted that any Commissioner may pull an individual Consent Item for additional discussion.

Mayor Malkoon also advised that the Garden Club of Lauderdale-By-The-Sea has scheduled its annual fundraising event for January 25, 2025, from 9 a.m. to 1 p.m. The Garden Club has asked the Commission to consider waiving parking fees in the Town Hall parking lot during that time frame. There was Commission consensus to waive these fees.

9. TOWN ATTORNEY REPORT

Mayor Malkoon requested Commission discussion regarding a home in the Bel Air neighborhood which has been the subject of public comment at tonight's meeting as well as previous meetings and various communications. Town Attorney Trevarthen explained that her office, as well as Town Staff, has looked into the concerns raised by a member of the public and have applied Code requirements related to the ability to appeal. Code Section 30-531(C) states that an appeal should be filed either 30 days from the date at which the applicant knew of the decision that forms the basis of the appeal, or the date at which they should have known of this decision with reasonable diligence.

Town Attorney Trevarthen continued that the permitting and approval processes for the subject property were reviewed. These processes date back to late 2023, at which time the initial building permit was issued. Staff identified that on May 16, 2024, an inspection

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

of the structure's upper level failed. This proved that construction was underway on the third floor of the property and was visible to the surrounding area, and was determined to be the moment at which an applicant could have come forward with reasonable diligence.

The Town did not receive a request from the resident until after other documents were received by the individual in July 2024, followed by a formal document called an appeal in August 2024. Town Attorney Trevarthen concluded that the appeal was ultimately rejected based on the calculation of May 2024 as the time when an applicant could have come forward.

Town Attorney Trevarthen continued that the Town has since received additional written and verbal communications from the resident, all of which are variations on the same issue, which is when decisions were made about the property. Town administration, including her office, has examined this issue, as a decision regarding the timing of an appeal is, in part, a legal question. Upon multiple reviews of the issue, Staff remains firm in its assessment, as does her office.

Town Attorney Trevarthen advised that the resident has the right to retain counsel and seek other remedies for the issue if that is his desire. She concluded, however, that her explanation addresses the appeal process, including the question of why there has been no appeal hearing. The Planning and Zoning Board has no jurisdiction over any part of this process.

Town Attorney Trevarthen also noted that examination of the process showed that there were some sheets, during the building permit process, which included information that was identified and corrected. The sheets that have been officially approved for the subject property are correct, and construction of the property conforms to Town requirements.

Town Attorney Trevarthen also recalled that the resident had expressed generalized concerns regarding development in the Town's single-family neighborhoods, and had indicated that the Town should undertake architectural review that would apply to buildings in those neighborhoods. This is not, however, the choice made by the Town Commission when they first adopted architectural guidelines or processes related to those guidelines: instead they decided not to apply the process for which the resident has advocated to those single-family homes. She emphasized that this is a policy choice, which can be reconsidered by the Commission if they wish.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Mayor Malkoon observed that the owner of the subject property has signed an affidavit with the Town which ensures that the structure will not be used for recreational purposes.

Mayor Malkoon also addressed the design of the subject property, which includes glass railings as well as lighting. He recalled that one concern raised by the resident who opposed the building's construction had been that these features were not necessary on the roof of the structure.

Development Services Director Jhanelle Campbell addressed this question, stating that Town Code has no architectural standards for single-family homes. As long as the structure meets the parameters of established Code, the property owner may include decorative railings and lighting.

Mayor Malkoon commented that he is required to consider this issue from a legal perspective in his capacity as Mayor. He did not feel the resident's assertion that "nothing has been done" to correct previous mistakes on the subject property was accurate; however, he did feel that a general conversation on the Town's single-family homes may be warranted, as other neighborhoods have expressed concerns regarding compatibility.

Development Services Director Campbell further clarified that the subject property is not a three-story home, but is a two-story home with a stairwell and small landing which lead to the building's rooftop. The total building height, including the rooftop, is below the Town's maximum permitted height of 33 ft.

Commissioner Pouloupoulos asked why the structure has rooftop access including a stairwell and doorway. Development Services Director Campbell replied that the plans submitted by the property owner include the placement of solar panels on the roof. There will also be roof grates which will require cleaning. An owner is permitted to have access to their rooftop, although they are not permitted to use that space for passive or active recreation.

Commissioner Pouloupoulos noted that should an individual see evidence of rooftop recreation, they would have a legitimate concern that could be shared with Code Compliance. Development Services Director Campbell confirmed this, adding that this was what had led to the property owner's signature on the affidavit. The owner has indicated that he understands this restriction.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Commissioner Pouloupoulos asked if Town Code requires single-family homes to conform to the Mid-century Modern style of architecture. Development Services Director Campbell stated that this is not the case for single-family homes, which may be of any architectural style. Only a single-family home in the RM-25 zoning district would be required to comply with that style. The subject property is located in the RS-4 zoning district.

Commissioner Pouloupoulos also addressed the papers submitted as part of the permitting process for the subject property, which were presented to the Town Commission by the resident who objected to the property. He pointed out that the original plans for the property have been corrected and have now been approved. He concluded that he had questions regarding the permitting process for the subject property.

Development Services Director Campbell explained that when she spoke to the property owner, he was aware that he could not use the rooftop for recreational purposes. He then revised the plans to remove any reference that could be perceived as using the roof in that manner, and signed the aforementioned affidavit.

Vice Mayor Strauss agreed with the Town's position on this issue, as well as with the explanation given by the Town Attorney. He also thanked resident Marc Pearson for the presentations he has previously made to the Commission, and agreed that there may be a need for further discussion of development patterns and types in Lauderdale-By-The-Sea, possibly including a roundtable discussion with community input.

Vice Mayor Strauss addressed the affidavit, asking what would be the next step if Mr. Pearson witnessed recreational behavior on the property's rooftop and brought it to the attention of Code Compliance. Development Services Director Campbell replied that if tangible evidence of passive or active recreation was witnessed, the Town might request a finding of fact by the Special Magistrate. This would recognize that a violation occurred, and if it recurs, the property owner would be deemed a repeat violator. This would allow the Town to immediately institute fines of up to \$500/day per violation in order to enforce Code.

Commissioner Graziano advised that he would like the Commission to have a discussion regarding the Sea Lord Hotel property, as there have been complaints regarding that property's roof access/activity by residents which were similar to the concerns expressed for the Bel Air property.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Commissioner DeNapoli also felt there should be further discussion of single-family homes and concerns about their design and construction in the future.

Marc Pearson, 1921 Water's Edge, stated that he had initially perceived the structure on the subject property to be an elevator shaft; however, when he saw that the structure included a doorway, he began to have concerns about the building. He asserted that the Town is incorrect in its estimation of how the property's design was amended, adding that the building still has a third floor.

Mr. Pearson continued that Town Ordinances state a penthouse must be used solely to cover a stairway; however, in this case the structure is much larger than a stairway. He added that additional issues with the subject property include "hurricane problems" related to windows, as well as an activity area on the roof, which is prohibited by Code. He felt the Commission is "supporting the Town changing the Ordinances," and that other residents of the Town have also expressed concern with the structure.

Town Attorney Trevarthen addressed Commissioner Graziano's concern regarding the Sea Lord Hotel, explaining that that property also had a lengthy history. The owner of the hotel purchased a property across the street as a second part of their development. When the hotel was under construction, Town inspectors noted that the structure was being built in a manner that was not compliant with the approved plans for the property. Staff issued a Stop Work order and began to investigate the issue.

Town Attorney Trevarthen noted that Staff had approached the hotel owner and required them to change their plans and submit them for review so the Town could ensure they were in compliance with Town Code and the Town Charter. One complicating factor related to the Sea Lord property was that the owner had sought to install a solar energy system on its roof. A Florida Statute states that local governments have limited discretion with regard to the installation of alternative energy systems, such as solar, wind, or other devices.

The Town entered into a dialogue with the hotel owner through its experts at CAP Government, requesting clarification of how the hotel qualified for that statutory preemption. When this discussion began, there were several items proposed for the hotel's rooftop; at the end of the process, these items included only those which could be substantiated as requirements for elevator overruns, mechanical equipment and enclosures, and canopies related only to that area. The owner had sought to place the solar panels on top of those structures; however, the solar panels were determined to

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

be 8 in. taller than what the Town's Charter allows. The Charter also addresses elevator and stairwell overruns, as well as equipment needs.

Development Services Director Campbell concluded that the solar panel deck is at a height of 42 ft. 9 in., which is several feet below the top of the building's elevator, at 47 ft. 8 in. The elevator is not counted toward the building height.

Commissioner Graziano observed that the Town Attorney has outlined the Town's position with regard to the Sea Lord Hotel, and added that should residents wish to bring forward additional complaints about that property, they have the right to do so.

Town Attorney Trevarthen also addressed a new Florida Statute addressing what local governments may and may not do with regard to homeless individuals who engage in public sleeping or camping. The Statute is found in Section 125.0231 and took effect on October 1, 2024. In combination with a ruling from the United States Supreme Court, it is now clearer what can be done constitutionally, and what the Florida Legislature has charged local governments with doing, to control public camping or sleeping on public property.

Town Attorney Trevarthen explained that the Statute includes the following sentence: "A municipality may not authorize or otherwise allow any person to regularly engage in public camping or sleeping on any public property, including but not limited to any public building or its grounds and any public right-of-way under the jurisdiction of the municipality."

Attorneys representing Broward County municipalities, as well as attorneys representing Broward County itself and the Broward Sheriff's Office (BSO), have met several times to discuss this regional issue. The Broward County Board of County Commissioners is currently scheduled to adopt an Ordinance which would create a County violation for camping where not permitted on public property. This Ordinance is designed to comply with the new Florida Statute as well as new case law, and specifically provides that any municipality which does not enact a conflicting Ordinance will be able to cite and enforce the County Ordinance.

Town Attorney Trevarthen continued that some Broward municipalities may choose to adopt a conflicting Ordinance in order to provide for more specific local provisions; however, it appears that most Broward municipalities will opt into the County Ordinance. The Town does not have to adopt its own Ordinance; in addition, if they need to cite an individual under the County Ordinance, the County would address the citation as a

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

County violation. This would mean a State Attorney may prosecute the violation and a public defender may defend the individual charged.

Town Attorney Trevarthen emphasized, however, that there is a second part of the Statute: beginning January 1, 2025, the Town can be sued if a County resident, County business owner, or the Florida Attorney General believes that the Town is not compliant with the Statute. Should this occur, a written complaint would be sent to the Town Commission, which is allowed five business days to take all reasonable actions within the limit of its governmental authority to cure the violation. If the Town does not take such action, the complainant may sue the Town for injunctive relief and receive attorneys' fees. Exemptions may occur in the case of emergency declarations.

Town Attorney Trevarthen advised that Town Staff and her office have discussed these issues with the Town Commission as well as with BSO. She pointed out that the Town will need to have a system in place no later than January 1, 2025 in order to act promptly in the event that they receive a written complaint.

Commissioner Poulopoulos asked if a violation of the Statute would be considered a misdemeanor or an Ordinance violation. Town Attorney Trevarthen replied that the County Ordinance, which has not yet been adopted, indicates a preference for use of the civil citation process; if an individual is ineligible for that process, the violation would be pursued as a misdemeanor.

Commissioner Poulopoulos also asked if the Town would be considered to adopt the County's Ordinance through non-action if they decline to enact their own conflicting legislation. Town Attorney Trevarthen replied that the Commission may wish to enact its own Ordinance, but they are also allowed to opt into the County's system and cite offenses as they see fit. She added that individual BSO Officers retain discretion on how to deal with each individual issue.

Commissioner Poulopoulos asked if there is a chance the Town may become liable for the discretion of BSO Officers in their capacity as Town contractors. Town Attorney Trevarthen replied that the Town's contract with BSO provides for liability. She cautioned that the new Statute represents new ground which may not be fully understood by the State Legislature.

Commissioner Poulopoulos asked if the Sheriff opposed the County Ordinance. Town Attorney Trevarthen replied that she did not know the answer to this.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

10. APPROVAL OF MINUTES

a. Approval of minutes for September meetings

Vice Mayor Strauss made a motion, seconded by Commissioner Pouloupoulos, to approve the minutes. Motion carried 5-0.

11. CONSENT AGENDA

a. Special Event Application: Breast Cancer Vigil 10.16.24

b. Resolution 2024-42 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT WITH THE BROWARD COUNTY SHERIFF’S OFFICE FOR ENHANCED PATROL SERVICES IN THE AMOUNT OF \$100,000 FOR THE 2024/2025 FISCAL YEAR AND IN AN AMOUNT NOT TO EXCEED BUDGETED FUNDS FOR FUTURE FISCAL YEARS; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.

c. Special Event Application: Seaside Players, “The Outsider” November 2024

d. Resolution 2024-43 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A PIGGYBACK AGREEMENT WITH EVOLVTEC FOR CCTV SECURITY CAMERA MAINTENANCE SERVICES, UTILIZING THE TERMS AND CONDITIONS OF THE CITY OF OAKLAND PARK INVITATION TO BID #091520; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE PIGGYBACK AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

e. Special Event Application: Community Church Flea Market 2024/2025 Season

f. Special Event Application: Gentle Yoga 2024

Commissioner Graziano stated that he wanted every entity submitting a Special Event Application to ensure that the Town is a named insured party if that Applicant is using

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Town property or is a vendor. He added that every vendor should provide the Town with a certificate of insurance, naming them as insured.

Vice Mayor Strauss made a motion, seconded by Commissioner DeNapoli, to approve a through f. Motion carried 5-0.

12. OLD BUSINESS

- a. A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADOPTING REGULATIONS FOR THE SALE OF ALCOHOL AT BEACHFRONT HOTEL PROPERTIES; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Malkoon opened public comment.

Joe Imbrogno, general manager of Plunge Beach Resort, stated that he supported the proposed Resolution. He provided an update on a pilot program approved by the Commission in February 2024 which was very successful. Plunge has developed a trash management process to ensure the cleanliness of the hotel's beach and waterfront. Beach attendants not only manage food service items when serving, but also walk the beach twice each day to pick up trash.

Mr. Imbrogno continued that hotel guests who may order food and alcohol from the beach are less likely to bring their own beverages to the beach. Plunge has served food and beverages to over 2000 guests since the approval of the pilot program. He encouraged the Commission to approve the proposed Resolution.

With no other individuals wishing to speak at this time, Mayor Malkoon closed public comment.

Development Services Director Campbell recalled that at the February 13, 2024 meeting, Mr. Imbrogno had requested approval for Plunge to serve food and beverages to customers using their beach chairs. The resort has over 100 rooms and includes a restaurant. The requested alcohol service would be generated from that restaurant between the proposed service hours of 12 p.m. and 3 p.m., seven days per week. Service is limited to hotel patrons who are identified by wristbands.

Additional conditions of approval outlined in the Resolution include:

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

- Only hotel guests using the hotel's beach chairs may order alcohol during the service hours; no walk-up customers are permitted
- The hotel has provided the Town with insurance information as well as appropriate licensing
- The hotel has provided a sketch of its service area
- The hotel has developed a trash management plan as described earlier
- Appropriate safety measures must be taken during sea turtle nesting season
- The approval is temporary in nature and would be reviewed after one year

Mayor Malkoon requested clarification of the trial period of the agreement. Development Services Director Campbell reiterated that approval was first granted in February 2024; the proposed Resolution would extend that approval for another year from its date of execution.

Mayor Malkoon also asked if the Commission was ever updated on the pilot program after it began. Development Services Director Campbell replied that no updates were scheduled or provided.

Mayor Malkoon commented that when he had requested an update on the pilot program over summer 2024, there had been little awareness that the program was ongoing. He pointed out that the Resolution does not address the success or findings of the pilot program, and emphasized that Staff must ensure there is appropriate follow-up on items such as this program.

Mayor Malkoon concluded that he remains supportive of the beachfront service program, as no complaints have been received.

Vice Mayor Strauss asked if the Town would need feedback on items such as the pilot program only if there were issues, or if feedback would be necessary in any case. Mayor Malkoon recalled that the original pilot program agenda item had been meant to come back before the Commission for an update. Vice Mayor Strauss observed that he had also heard no feedback on the program, and agreed that he continued to support it going forward.

Commissioner Pouloupoulos advised that he had also heard no information about the pilot program. He asked if the Downtown businesses and restaurants which serve alcohol are allowed to do so to patrons who are going to the beach. He noted that this type of service would likely need to be done in closed containers. Town Attorney

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Trevarthen replied that the Town administration and Staff would need to discuss rules for this type of service before allowing it.

Commissioner Pouloupoulos explained that he wished to know if Plunge would continue to be the only entity serving alcohol on the beach in Lauderdale-By-The-Sea. Town Attorney Trevarthen replied that the Town has open container laws which would apply to the sale of alcohol; however, the issue is more complex, as there are occasional Town events at which alcohol sales might be involved. The open container law is a municipal Ordinance.

Town Manager Connors further clarified that a recently adopted State Statute permits the sale of alcohol to go in closed containers. This change was made during the COVID-19 pandemic.

Commissioner Pouloupoulos explained that he felt if sale of alcohol on the beach is permitted for one business, other Downtown businesses should be allowed to do so as well. Mayor Malkoon pointed out that the Plunge is a hotel with private guests.

Commissioner Graziano commented that he believed the Aruba Beach Café and Anglin's Pier are both beachfront properties which are licensed to sell alcohol on the beach. He added that he was in favor of the pilot program, recalling that it restricted service to only a few hours per day. He did not oppose expanding those hours, although he expressed concern with the possibility that other businesses may wish to promote the sale of alcohol on the beach.

Mayor Malkoon requested that in the future, Resolution numbers be included on all Resolutions. It was clarified that the Resolution in question is Resolution 2024-44.

Commissioner Pouloupoulos made a motion, seconded by Commissioner Graziano, to approve. Motion carried 5-0.

b. Friday Night Music Series

Events and Marketing Manager Katie Anderson recalled that at the September 18, 2024 Commission meeting, the Commission directed Staff to bring back the 2025 Friday Night Music Series for additional discussion. This discussion included the following directives:

- Update on donation(s) for the 2024 Friday Night Music Series: at present, the Town has received no money, although they have received a letter from the

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

donating vendor which indicates that paperwork has been processed for the issuance of a check; the Town has also received donations from Aruba Beach Café, the Village Grille, Vinny's, and 101, each in the amount of \$500, totaling \$2000; these donations are good faith payments to be used toward the 2025 Friday Night Music Series

- The Town reached out to other municipalities to ask how similar outdoor music series were funded; at this time, all responses have indicated that the programs are budget items
- Discussion on whether or not the 2025 Friday Night Music Series would move forward: Staff requests direction on this issue so they may begin contracting with quality entertainment for the 2025 series if the six dates are approved

Mayor Malkoon recalled that the Town received word that the donation from a vendor has been approved, although no funds have been received thus far. He asked if the 2025 series will receive a similar commitment, or if the \$2000 in donations from Downtown restaurants will be the only pledged funds. Events and Marketing Manager Anderson replied that at this time there has been no directive regarding a required amount.

Mayor Malkoon noted that the businesses had indicated their donations were made in good faith, and requested clarification of whether or not additional funding should be expected or if \$2000 would constitute the full contribution.

Commissioner Graziano recalled that at the previous Commission meeting, he had described the Downtown businesses that would benefit from the event as less than reliable partners if they did not pay \$15,000 toward the series. He was not satisfied with the letter received from the vendor.

With regard to funding, Commissioner Graziano continued that only a few reliable and responsible entities have put forward any money thus far. While he did not oppose the Friday Night Music Series, he expressed concern with funding, stating that he would like other participants who benefit from the event to act as reliable partners with both the Town and the restaurants.

Commissioner Graziano added that he also had safety concerns, pointing out that the placement of the stage for the Friday Night Music Series is very close to A1A. He cautioned that the location was described by a former BSO Captain as "one of the busiest corners in South Florida," and noted that the configuration of the roadway and the level of traffic raise concerns for safe access to the Town's commercial district.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

BSO Captain Bill Wesolowski addressed the safety concerns, recalling that in 2024, all Friday Night Music Series events were conducted safely at their regular location. While he did not dispute the level of traffic at the subject intersection, he stated that the preventative measures enacted at that location include water barriers, lighted Police cars along A1A, flashing signage, and a center lane closure so traffic cannot continue eastbound on Commercial Boulevard. These measures are put into place in the early afternoon on event dates.

Captain Wesolowski continued that bollards are being added across A1A as part of that roadway's resurfacing project to further reinforce safety. He concluded that if it is the Commission's desire, the meridian barriers used for events such as Christmas-By-The-Sea, as well as more advanced roadway closures, are another option as well.

Commissioner Graziano asserted that the discussion is not intended to address possible additional roadway closures, but to focus on traffic on A1A, which he felt poses a high risk for pedestrians. He was also not in favor of limiting business opportunities or valet service for the Friday Night Music Series, concluding that his greatest concerns for safety involved traffic turning in the subject area or traveling north on A1A.

Mayor Malkoon asked if it would be possible to close an alleyway in the subject area. Captain Wesolowski explained that the alleyway is used by valet service for Aruba Beach Café. He noted that five BSO Deputies currently work the Friday Night Music Series, and it may be possible to add another Deputy if that is the Town's desire.

Vice Mayor Strauss recalled that during the previous event season, the Town had relocated the stage closer to the beach to provide more room for pedestrian traffic. He also pointed out that alcohol is not sold at the Friday Night Music Series, except by restaurants in the area.

With regard to funding, Vice Mayor Strauss continued that in fiscal year (FY) 2024, the Commission had asked for Downtown businesses to participate in the event by making a token contribution. He advised that this has been done, and did not take issue with the pending check from the vendor. He felt the businesses have acted responsibly toward continuing the Friday Night Music Series, and that further donations may come in the future.

Vice Mayor Strauss also addressed noise, stating that most residents in and near his neighborhood have responded very positively to the music events. He asserted that he

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

has had no negative experiences related to noise from the series. He felt it would be a disservice to the Town to eliminate the Friday Night Music Series, and hoped it would continue.

Commissioner DeNapoli asked how much each Friday Night Music Series event costs the Town. Events and Marketing Manager Anderson explained that each event costs approximately \$8000, although \$10,000 is budgeted per event. The overall series includes some marketing costs as well. Four out of five scheduled events were held in the 2024 season and six are proposed for 2025. No specific amount had been cited as the expected contribution from businesses in 2024. The \$15,000 amount had been determined during internal discussions by contributing businesses.

Town Manager Connors recalled that the businesses had worked with the vendor to secure the \$15,000 commitment; however, there had been no expectation of any amount to be contributed by the businesses when the 2024 budget was discussed. Mayor Malkoon added that the businesses had made a collective purchase through the vendor.

Commissioner DeNapoli commented that there should be clarity on what is asked of participants in any agreement about the Friday Night Music Event. If the businesses had made a commitment to provide funding and had not done so, he felt there should be some consequence; if the donation had only been discussed later, this would make a significant difference. He recalled that when the events were discussed at the previous Commission meeting, there had seemed to be some expectation of the \$15,000 funding commitment.

Vice Mayor Strauss stated that there had been no expectation of a funding commitment from the businesses in FY 2024, although he clarified that he had indicated the businesses should have some type of involvement, such as a token contribution, to show their interest in the event. He emphasized that there had been no initial expectation of a payment, nor of a specific amount.

Commissioner Graziano emphasized that he wanted to see changes regarding the Friday Night Music Series with regard to both improved public safety and greater participation from businesses. He requested clarification of the involvement of the alcohol vendor in the events.

Peggy Mohler, owner of Aruba Beach Café, explained that the vendor, Republican National, is a major wholesaler. The Downtown restaurants worked together and

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

requested that the vendor make a donation toward the Friday Night Music Series. Each restaurant ordered a certain amount of specific brands of alcohol carried by the wholesaler.

Commissioner Graziano reiterated that he wanted to see more participation by the businesses in the Friday Night Music Series. He characterized the Town's relationship with the businesses as a partnership, with both parties invested in each other's success. He added that the series is funded by taxpayer dollars, which was one reason he felt the businesses should help pay for the events. He concluded that he was "unrelenting" with regard to safety issues.

Commissioner Pouloupoulos recalled that he was not entirely supportive of the Friday Night Music Series, which was originally sponsored by private entities. When those entities discontinued the event, the Town made a choice to bring it back using taxpayer money. He also recalled that the Vice Mayor had indicated a desire for the businesses to make a commitment to the event, and had believed that Staff would pursue negotiations to that effect.

Commissioner Pouloupoulos asserted that he did not believe taxpayers should have to fund events that were privately sponsored for several years. He expressed concern with the use of the Downtown area as a venue, which makes many businesses inaccessible, as well as with the Town's funding of the events. He felt the businesses should bring back the events if they wish to continue them.

Vice Mayor Strauss made a motion to approve. [The motion died for lack of second.]

Commissioner Pouloupoulos made a motion, seconded by Commissioner Graziano, to deny. Motion failed.

Commissioner DeNapoli made a motion to approve five Friday Night Music Series events.

Events and Marketing Manager Anderson requested clarification of which of the currently proposed six dates would be dropped. It was determined that the June date would be dropped and the events would run from January through May 2025. The June date would remain as an alternative in the event of inclement weather.

Vice Mayor Strauss seconded the motion. Motion carried 3-2.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

c. Resolution 2024-30 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, REVISING THE TOWN OF LAUDERDALE-BY-THE-SEA PAY PLAN TO INCORPORATE NEWLY ESTABLISHED CODE COMPLIANCE POSITIONS; AUTHORIZING THE TOWN MANAGER AND TOWN OFFICIALS TO IMPLEMENT THE REVISED PAY PLAN BY ESTABLISHING TWO NEW POSITIONS AND PAY FRAMEWORK AND ESTABLISHING JOB DESCRIPTIONS; PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

At this time Mayor Malkoon opened public comment.

Marc Pearson, 1921 Water's Edge, stated that hiring internal staff is more likely to be a permanent change, and therefore requires very accurate information including expenses, reorganization, supervision, and other commitments. He recommended that the Town consider extending the current Code Compliance Officers' services while the option of new Town hires is explored.

Town Manager Connors advised that Staff has researched this issue and spoken with different organizations that provide municipal Code Officers. SAFEbuilt, which recently purchased vendor Calvin, Giordano and Associates, requires a 2.1 multiplier for hires to cover administrative fees. This would mean if the Town hired an employee at \$50,000, they would be required to pay SAFEbuilt \$105,000 for that position.

Town Manager Connors continued that the Town plans to add a supervisor to provide additional oversight to Code Compliance. This position was included in the budget. It would be cost-prohibitive to hire this employee from SAFEbuilt with the 2.1 multiplier for this position, as supervisory salaries range from \$90,000 to \$135,000. She concluded that Staff determined that hiring Code Officers as Town Staff will give the Town both greater discretion over its employees and more affordability in the long run.

The Code supervisor's title would be Assistant Director of Development Services (Code Compliance). This is to ensure consistency with the Town's pay plan. Two Code Compliance Officer positions are also proposed. The positions are budgeted through both the General Fund and the Building Fund.

Development Services Director Campbell further clarified that the Assistant Director of Development Services (Code Compliance) position would have a salary range of

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

\$90,640 to \$135,960, while the two Code Compliance Officer salaries range from \$51,500 to \$77,250.

The rationale behind the request is to bring Code Compliance in-house for the Town and provide better service at a lower cost in comparison to the current contractor, SAFEbuilt. The Town has used SAFEbuilt for Code Compliance since 2011. The current contract with that vendor will expire on December 30, 2024.

Development Services Director Campbell advised that Staff requests to transition from contracted service to in-house Code Compliance as the contract nears expiration. There has been a noticeable decline in the quality of service from the current contractor as the expiration date approaches. Providing in-house Code Compliance Staff would give the Town better control over those operations.

The estimated cost of continuing services with SAFEbuilt into 2025 with three employees would be approximately \$486,500; however, the estimated cost of three in-house employees, including benefits and both vacation rental and Code Compliance software, would be roughly \$400,000. These estimates include a 0.3 multiplier for benefits and software costs, bringing the total savings to over \$75,000/year.

Staff requests immediate approval of the positions in order to facilitate the transition from SAFEbuilt to Town employees. Staff has met with SAFEbuilt, which has agreed to assist in the transition if the positions are approved.

Mayor Malkoon asked if the proposed salary ranges also include estimated benefits. Town Manager Connors stated that benefits constitute approximately 30% of salary, which is included in the estimated total.

Mayor Malkoon also recalled that Staff had discussed SAFEbuilt's multiplier with that contractor. Town Manager Connors replied that the multiplier was first discussed some months ago. SAFEbuilt had indicated that if the Town went out to bid instead of extending their contract, their rate would change from \$68/hour to \$112/hour for a regular employee. If the contract was extended, the company would keep the current 2.1 multiplier, which comes to approximately \$68/hour.

Mayor Malkoon commented that when this contract was discussed at a previous meeting, he had been disappointed in SAFEbuilt and their representatives' actions in regard to negotiations. He concluded that the company's behavior had been unprofessional.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Commissioner Pouloupoulos concurred with Mayor Malkoon's comments regarding SAFEbuilt, and noted that no representative of that contractor was present at tonight's meeting. He added that approving the positions within the budget is not the same as filling those positions, suggesting that the Town may wish to begin by filling one position and then determining if there is a need to fill the other.

Town Manager Connors explained that Staff is requesting the creation of the positions so they can seek acceptable applicants to fill them. She recommended that the Commission not create the positions if they do not plan to fill them, reminding them that SAFEbuilt has indicated they will help the Town with the transition from contracted to in-house services.

Town Manager Connors continued that it can be difficult to fill Code Compliance Officer positions, as the candidates must have specific training. This means the Assistant Director of Development Services may be supervising SAFEbuilt Code Officers until the contractor transitions out. The Code Compliance Officer positions will be immediately advertised if approved.

Commissioner DeNapoli made a motion, seconded by Commissioner Graziano, to approve. Motion carried 5-0.

The Commission took a five-minute recess at this time.

13. NEW BUSINESS

a. Special Event Application: Chanukah Festival December 29, 2024

Events and Marketing Manager Anderson advised that Rabbi Bentzion Singer, representing Chabad Lauderdale-By-The-Sea, has submitted a Special Event Application to hold the annual Chanukah Festival in Connie Hoffmann Plaza on Sunday, December 29, 2024.

The annual Chanukah Festival includes a live band, a menorah lighting ceremony, and complimentary refreshments. As in previous years, Aruba Beach Café will move its outdoor dining tables and assist in catering for the event, as well as participating in setup and cleanup. The Applicant will coordinate these details directly with Aruba.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

The Application was submitted on August 26, 2024, which was one day before the Town's new Special Event fee structures were adopted by the Commission. The fees outlined in Resolution 2017-41 will be honored. The Applicant requests waiver of the Application fee as well as the electrical use and Plaza use fees. The Commission has historically agreed to waive these fees, which is consistent with their treatment of fees associated with the Town's annual Community Church Easter service, also held in the Plaza. The total fees would be \$365.

The Applicant requests that the Town co-sponsor the event with a financial contribution of \$2000. Staff recommends that the Commission continue to waive Town fees but decline the financial donation request.

The Applicant also requests seven undesignated parking permits for the hours of 3 p.m. until 10 p.m., which carries a \$196 value. Staff recommends approving these permits.

Staff recommends approval of the Special Event Application with the conditions outlined in the event permit. They also recommend approval of waiving the \$365 in fees and providing the seven parking permits. Staff requests Commission direction on the \$2000 donation.

Mayor Malkoon asked if the donation would be the same as sponsorship. Events and Marketing Manager Anderson confirmed this.

Vice Mayor Strauss stated that the annual Chanukah Festival is similar in nature to the Town's Christmas-By-The-Sea event, of which the Town is a sponsor. He emphasized that the event is open to all and the \$2000 contribution would help defray costs. He concluded that sponsorship of the event is overdue.

Commissioner Pouloupoulos advised that while he is fully supportive of the Chanukah Festival, he would stand by his previous position on co-sponsorship of events with religious themes. He observed that Christmas-By-The-Sea does not include these themes, and that other religious organizations which hold events in the Town do not request Town sponsorship. He concluded that sponsorship of one religious event could lead to the consideration of sponsoring all such events.

Rabbi Bentzion Singer, Applicant, agreed that there should be no differentiations of sponsorships of religious events, but pointed out that the Town is a sponsor of Christmas-By-The-Sea. For this reason, he felt the Town should also sponsor the Chanukah Festival.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Commissioner Pouloupoulos asked if there are any religious elements to the Chanukah event. Rabbi Singer explained that the event welcomes the community at large and has a universal message of light over darkness. The message is not aimed at a specific audience. A menorah is lighted at the ceremony. He concluded that the request is for fair and equal treatment of events.

Commissioner Pouloupoulos asked how the Town's sponsorship funding would be used, stating that the Town is aware of how its taxpayer funding of the Christmas-By-The-Sea event would be used. He expressed concern that other applicants may choose to request Town sponsorship of events in the future, and the Town must be able to ask them how their funds would be used.

Rabbi Singer advised that the request would help to defray the costs of the event, which costs upward of \$10,000. He offered to provide an itemized budget for the event, emphasizing that it would not go toward Chabad Lauderdale-By-The-Sea's overall operational costs.

Commissioner Pouloupoulos noted that the request is for \$2000 to co-sponsor an event that is expected to have 100 attendees, and asked if an estimated dollar amount per attendee could be used as a guideline when considering future requests. Rabbi Singer emphasized that the attendance number is only an estimate.

Town Attorney Trevarthen stated that there is a wide range of events with which the Town may be presented in the future, with wide-ranging estimated attendances. Each organization's plans for these events may have substantially different cost profiles. She cautioned that comparability of events is not simple.

Town Attorney Trevarthen continued that law has evolved in a manner that allows the Town to consider co-sponsorship of the Chanukah Festival without violating the Bill of Rights' establishment clause. She also recommended that the Commission keep in mind that different religions may not be treated differently, and pointed out that courts have found Christmas-themed events, such as Christmas-By-The-Sea, to be secular in nature. The act of saying a prayer during menorah lighting can be seen as religious imagery.

Commissioner Pouloupoulos observed that he would like to establish some type of objective rubric which could be used to evaluate future sponsorship requests. Town

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Attorney Trevarthen advised that the Town may wish to develop a sponsorship policy which could be applied to events.

Mayor Malkoon noted that Christmas-By-The-Sea is an event run by the Town, which means it is a separate policy. He asked if the Town made a contribution to the 2023 Chanukah Festival. It was confirmed that no funding was provided, although the Town waived the fees for last year's event and approved the requested parking passes.

Commissioner DeNapoli asked if there are any current standards required of organizations receiving Town funds, such as status as a 501(c)3. Town Attorney Trevarthen reiterated that the Town has not entered into sponsorships of this nature before, and again recommended that Staff look into the development of a sponsorship policy.

Town Attorney Trevarthen further clarified that in the past, the Commission has been advised that it is not legally permissible to fund events with a religious themes; however, three years ago, when the U.S. Supreme Court indicated they may be evolving on the issue, it could no longer be said that the establishment clause prohibits discussion of sponsorships of religious events.

Commissioner DeNapoli observed that there have been cases that distinguished between symbols such as Christmas trees and menorahs. Town Attorney Trevarthen noted that cases addressing holiday displays have been stable for some time, particularly when a multitude of symbols are used. She noted that the Town also has the option of establishing a policy in which any entity receiving Town co-sponsorship dollars must be a registered nonprofit.

Town Manager Connors stated that in the past, the Town has approved the Chanukah Festival but declined co-sponsorship. She acknowledged the questions raised by Commissioners DeNapoli and Pouloupoulos as well as by the Town Attorney, and suggested that the Commission consider approving the event at tonight's meeting, with the intent of coming back to address sponsorship policy.

Commissioner Graziano also stated that while he was in favor of the Chanukah Festival, he found sponsorship to be a potential issue. He expressed concern with the legal complications of the request, and proposed that Chabad Lauderdale-By-The-Sea consider applying for Town funding when other nonprofit entities request donations during budget season, as they perform significant community work within the Town.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Rabbi Singer clarified that Chabad Lauderdale-By-The-Sea is registered as a 501(c)3 organization.

Vice Mayor Strauss agreed that Commissioner Graziano's proposal that Chabad Lauderdale-By-The-Sea consider making a nonprofit donation request may be a potential solution. He observed that the Commission could revisit the FY 2025 budget to provide a charitable donation.

Commissioner DeNapoli asserted that he was in favor of further researching the law in relation to the funding of non-religious benefits, as well as the determination of which elements of an event may be considered religious or secular, or whether a municipality may hold a secularized version of an event.

Commissioner DeNapoli made a motion, seconded by Commissioner Poulopoulos, to authorize the event with all waivers.

Commissioner Poulopoulos also spoke in support of Commissioner Graziano's proposal to consider a charitable donation rather than sponsorship, reiterating that his primary concern was with the possibility that other entities might make questionable requests in the future.

Mayor Malkoon stated that he did not take issue with approving the event or waiving the fees. He added, however, that until there is greater clarity on the sponsorship issue, he would not be in favor of providing those funds. He further clarified that he was willing to have the Town make a donation toward the event, and for Chabad Lauderdale-By-The-Sea to make a charitable donation request in the future as part of the Town's budget process.

Commissioner DeNapoli restated his **motion** as follows: **motion to approve the event, waiving all fees. Commissioner Poulopoulos seconded the motion. Motion carried 5-0.**

Commissioner DeNapoli observed that the Town may need to conduct additional research into options for applying for charitable donations, such as applying for a separate entity specifically related to the Chanukah Festival. Town Attorney Trevarthen stated that she saw two policy issues in this case: the Town needs a policy for the sponsorship of events, as well as a policy addressing nonprofit donations which involve religious organizations. She concluded that she would be happy to look into this further with the guidance received at tonight's meeting.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

- b. Resolution 2024-37 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING A PIGGYBACK AGREEMENT WITH REP SERVICES, INC. FOR PURCHASE OF PARK AND PLAYGROUND EQUIPMENT, UTILIZING THE TERMS AND CONDITIONS OF MANATEE COUNTY SCHOOL DISTRICT CONTRACT OF AWARD AGREEMENT NO. 21-0053-MR; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE PIGGYBACK AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

At this time Mayor Malkoon opened public comment, which he closed upon receiving no input.

Deputy Town Manager/Public Works Director Rubach recalled that the process of purchasing playground equipment began in 2023 with resident input. Since then, Town Staff has revised several concepts and held a final resident input meeting resulting in the selection of equipment. It is brought forward separately from a discussion of turf, which will be presented at the next Commission meeting, because some of the playground elements must be custom-made and take longer to produce. The goal is to purchase the equipment by early to mid-summer 2025. The cost of the equipment is \$594,211.68.

Commissioner DeNapoli commented that he was pleased with the new design of the equipment, which includes shade elements. Commissioner Graziano agreed as well, asking if the cost of flooring would exceed the budget for the items. Deputy Town Manager/Public Works Director Rubach reminded the Commissioners that the Town has also secured \$200,000 in grant funds toward the new equipment.

Commissioner Graziano made a motion, seconded by Commissioner DeNapoli, to approve.

Commissioner Pouloupoulos also addressed options for flooring, noting that these may be limited due to the need for compliance with the Americans with Disabilities Act (ADA). Deputy Town Manager/Public Works Director Rubach stated that Staff is currently deciding between synthetic turf and a rubberized surface.

Mayor Malkoon stated that while he was in favor of the design and the shade structures, he was uncertain about the function and maintenance of a misting element. He

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

requested clarification of the life expectancy of the equipment. It was clarified that warranties are based upon the components of the playground; however, proximity within 500 yards of the ocean also halves the warranty for some equipment.

Motion carried 5-0.

c. Application for Relief from Code Compliance Lien at 4217 El Mar Drive.

Mayor Malkoon advised that Items 13.c and 13.d would be discussed together and voted upon separately.

Development Services Director Campbell explained that the Town's mitigation policy was established in 2010 in order to encourage the renovation of properties with Code violations. The policy was amended in 2013 to allow lien settlements for single-family homes that remained in violation, and amended once more in 2014 to address commercial and multi-family properties as well.

The Town's lien mitigation policy allows for lien reductions of less than 50% to be approved by the Town Manager, with more significant reductions requiring Town Commission approval. Mitigation applications must consider the following:

- Nature and gravity of the violation
- Actions taken to correct the violation
- Time between compliance deadline and the date of compliance
- Cost incurred to correct the violation
- Previous or current violations by the respondent

The Application for the property at 4217 El Mar Drive was submitted by MP Holding, LLC. All Code violations have now been brought into compliance on that property. The violation was for air conditioning (AC) "mini-splits" installed without a permit. The lien on the property totaled \$74,700.

The new property owner, who assumed ownership of the property in August 2023, has requested a 95% lien reduction and proposed a settlement of \$4000 for the property at 4217 El Mar Drive. Permit compliance was reached after 275 days of noncompliance, with a permit fee of \$1092.80.

Development Services Director Campbell also noted that between the two properties at 4217 and 4225 El Mar Drive, the property owner has invested \$600,000 in property

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

improvements. Staff recommends that the Commission determine an appropriate lien mitigation amount and require payment by November 8, 2024. If not paid by the deadline, the lien would revert to the original amount of \$74,700.

Development Services Director Campbell also addressed the property at 4225 El Mar Drive, also known as the Buena Vista Hotel. The Applicant purchased this property on August 23, 2023. The violations were for multiple AC units installed without a permit as well as for maintenance and structural issues. The lien total for this second property is \$325,400. The Applicant has submitted all necessary permits to address violations for AC installation as well as roofing and structural repairs, and requests a 95% reduction, which would result in a total payment of \$16,000.

The violations were brought into compliance after the Applicant's purchase of the property. Permitting and administrative fees have been paid, with permit fees totaling \$7595.96. Staff also recommends that the Commission hear from the Applicant, determine an appropriate lien mitigation amount, and request full payment no later than November 8, 2024, or the lien would revert to its original amount of \$325,400.

Jose Del Toro, Chief Operating Officer for MP Holdings LLC, stated that the company's main focus in purchasing the subject properties was to quickly turn the properties around. They have secured over five separate permits for the work on the two properties and request consideration of lien reductions.

Mayor Malkoon requested clarification of the new use of the properties. Mr. Del Toro explained that the Buena Vista Hotel will continue to operate as a hotel use.

Mayor Malkoon advised that the Town's Code Compliance process is intended to improve properties in the community which have been eyesores. He acknowledged that the Applicant has invested significantly and worked quickly to improve the properties and bring them into compliance, with no further safety issues.

Commissioner Graziano commented that the two properties have separate mitigation issues, and stated he was not in favor of reducing a \$400,000 lien to below \$20,000. He wished to discuss the Town's mitigation process in greater depth in order to control the costs of fines before they reach such a significant level. He suggested the Town may wish to consider a new policy. Mayor Malkoon pointed out that the Town has placed a lien on the subject properties, which the Applicant is now seeking to mitigate.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Vice Mayor Strauss expressed concern that mitigating the fines associated with the two properties could send the wrong message. He recalled that liens were allowed to accrue on the properties because they were intended to be sold to a new owner who would ask the Town to reduce the liens. This allows less scrupulous parties to ignore the liens they are accruing.

Vice Mayor Strauss continued that the Applicant purchased the properties with the knowledge of the liens, and that the liens likely contributed to a lower sale price for the properties. He explained that his concern was not for new investors who improve the properties they purchase, but with the parties who commit and perpetuate violations without concern for their impacts on the Town.

Vice Mayor Strauss concluded that he, like Mayor Malkoon, was in favor of mitigating the liens in these cases, but wished to point out his concerns with the process. He suggested that in the future, the Town may wish to modify their processes to allow them to catch violations and pursue liens more stringently in the future.

Commissioner DeNapoli asked if the liens on the subject properties influenced negotiations with the seller. Mr. Del Toro confirmed this. Commissioner DeNapoli asked if the Town has a program which would allow potential purchasers to come before the Commission in advance of making a purchase. Town Manager Connors advised that this is part of the lien application process, although it has only occurred once. Commissioner DeNapoli concluded that he was in favor of further discussion of the process, as well as with granting the mitigation requests before the Commission today.

It was further clarified that the Applicant paid a \$500 application fee as well as all outstanding administrative costs before their mitigation requests were allowed to go forward.

Commissioner Graziano made a motion, seconded by Commissioner DeNapoli, to mitigate the lien on 4217 El Mar Drive by 95% to \$4000 as well as other Staff costs, to be paid by November 8, 2024 or the lien would revert to its original amount of \$74,700. Motion carried 5-0.

d. Application for Relief from Code Compliance Lien at 4225 El Mar Drive.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Commissioner Graziano made a motion, seconded by Commissioner DeNapoli, to mitigate the lien on 4225 El Mar Drive by 95%, reducing it to \$16,000, to be paid by November 8, 2024 or the lien would revert to \$325,400. Motion carried 5-0.

14. COMMISSIONER PRESENTATIONS

Commissioner DeNapoli recalled that there had been previous discussion of the Commission providing additional communication to Town residents regarding the upcoming ballot initiative. He expressed concern that this was not achieved by the time certain of October 1, as determined during that earlier discussion. He noted that the communication was not sent out until October 4, 2024.

Commissioner DeNapoli also stated he would have liked to see the ballot initiative mentioned in the October 3, 2024 edition of *Town Topics*, as well as a printed version of the initiative which would be separately produced. He felt that the digital version of *Town Topics* should have included the information. He requested that the Commission vote or demonstrate consensus that this information should be sent out in the next digital version of *Town Topics*.

Town Manager Connors advised that the intent was to include the ballot initiative information in *Town Topics*; however, the regular quarterly issue was delayed. Staff ensured that *Town Topics* was designed by the contractor, reviewed by multiple parties, and printed and mailed by the vendor. She concluded that they had done the best they could to provide the information in a timely manner.

Town Manager Connors added that the ballot initiative information will be included in the upcoming digital version of *Town Topics*, as originally planned. She was not certain of when the printed edition would be available.

Mayor Malkoon requested clarification of the distribution of the printed postcard which had included information on the ballot initiative. Assistant to the Town Manager Courtney Easley replied that the postcard was sent to every property owner in Lauderdale-By-The-Sea, which meant that some Town-owned properties received it as well. The intent was to ensure that no properties were missed.

Commissioner DeNapoli reiterated that he was disappointed the information was not sent out by the time certain determined at the earlier meeting. He also wished the Commissioners had been updated on the process.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

15. COMMISSIONER COMMENTS

Vice Mayor Strauss encouraged all residents to take safety precautions during Hurricane Milton.

Commissioner Graziano noted that the Columbus Day holiday will be recognized on Monday, October 14, 2024. He added that he attended the recent “Coffee with a Cop” event and attended a Chamber of Commerce networking event. He also requested a sketch of the proposed public safety building so it can be discussed at the next Commission meeting.

Commissioner DeNapoli wished the best to residents of Florida’s West Coast, who are likely to be affected by the hurricane.

Mayor Malkoon and Commissioner Graziano recognized the recent grand opening of Crema Gourmet Coffee Shop.

Mayor Malkoon also encouraged residents to remain safe during the hurricane, particularly on roadways.

16. ORDINANCES 1ST READING

- a. **Ordinance No. 2024-10 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 18, “TAXATION AND FINANCE,” ARTICLE V, “INVESTMENT PLAN,” OF THE CODE OF ORDINANCES TO AMEND AUTHORIZED INVESTMENTS, QUALIFICATIONS OF FINANCIAL INSTITUTIONS AND DESIGNATION OF PRIMARY INVESTMENT OFFICER; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

At this time Mayor Malkoon opened public comment, which he closed upon receiving no input.

Deputy Town Manager/Public Works Director Rubach explained that the Town recently reviewed its investment policy, which had not been updated since 1996. There were a number of issues to be addressed, including the current inability of the Town to invest with Truist Bank due to policy language. Staff has worked with South State Bank to purchase Treasury Bills earlier today.

Lauderdale-By-The-Sea
Regular Town Commission Meeting
October 8, 2024

Mayor Malkoon commented that he wished for the Town to ensure policies such as this are reviewed in a timely manner. Deputy Town Manager/Public Works Director Rubach confirmed that Staff has updated its processes to include yearly review of policies.

Mayor Malkoon also asked what processes are in place to ensure that policies are reviewed and addressed in the future. Town Manager Connors replied that the Town recently contracted with Vendor Registry, which alerts Staff when reviews are due. This process is being used for contracts, insurance, and other elements as well.

Commissioner DeNapoli made a motion, seconded by Commissioner Pouloupoulos, to approve. Motion carried 5-0.

17. ORDINANCES 2ND READING

None.

18. RESOLUTIONS – PUBLIC COMMENTS

None.

19. QUASI JUDICIAL PUBLIC HEARINGS

None.

20. ADJOURNMENT

With no other business to come before the Commission at this time, the meeting was adjourned at 10:18 p.m.



Mayor Edmund Malkoon

ATTEST:

Lauderdale-By-The-Sea
Regular Town Commission Meeting
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Katrina Adler, Town Clerk

11/1/2024 | 10:52 AM EDT

Date